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Pension jackpot

Many more winning safety-worker label

By [John Hill](#) and [Dorothy Korber](#)
-- Bee Staff Writers
Published 2:15 am PDT Sunday, May 9, 2004

Prison cooks, plumbers, groundskeepers, teachers, dentists, business managers, and "audiovisual specialists" - all are among the 70,000 state workers considered police or firefighters, eligible to retire with better benefits than other state workers.



Plumber Brian Coughran changes a water valve in a cell at California State Prison, Sacramento, where the sewage and water system has frequent breakdowns and vandalism. Prison plumbers are classified as public-safety workers, making them eligible for fatter pensions and disability benefits.

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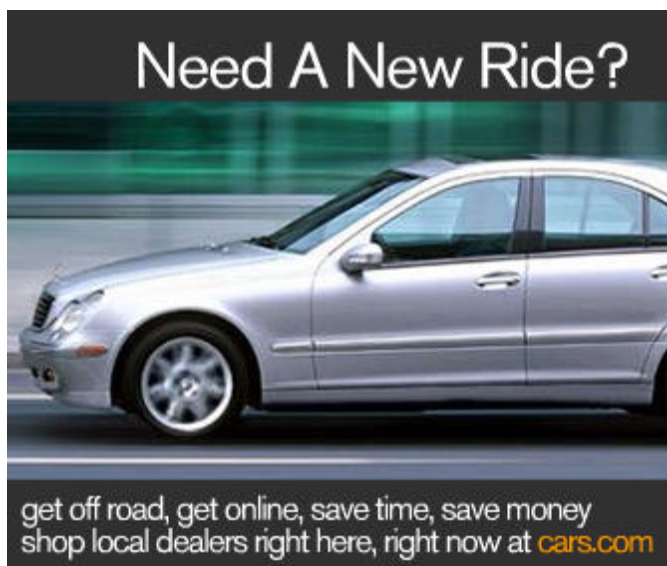
In fact, any worker in a California prison regularly in contact with inmates is considered a police officer, rewarded with a richer public pension for helping safeguard society.

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[Sacramento Bee/Paul Kitagaki Jr.](#)

The same goes for workers in state mental hospitals - from psychiatrists to podiatrists - who supervise patients. And, in July, a whole new crop will get these public-safety retirements, from driving examiners at the Department of Motor Vehicles to inspectors of milk, livestock and funeral homes.

In the 1960s, only about one in 20 state workers received enhanced retirements for their role in keeping the peace. Today, it's close to one in three. The state paid out \$587 million for the public safety categories in 2001-02, the most recent year statistics are available. That's nearly as much as it paid that year for the 230,000 workers not involved in public safety.



Originally, the rationale for offering earlier retirements to police officers and firefighters - "gun-toters and hose-pullers" - was that their jobs required them to be young and fit. But a Bee investigation found that public policy has been distorted almost beyond recognition.

One of the first groups added to the public-safety rolls in the 1970s was prison workers who didn't carry guns but did come into regular contact with inmates. They were workers such as Brian Coughran, a plumber at California State Prison, Sacramento.

Coughran oversees inmates who help maintain a vast sewage and water system constantly under siege from breakdowns and vandalism. He defends his eligibility for a better pension.

"Every moment you're inside the wire here, something can happen - everything from actually being attacked to catching a ricochet," Coughran said. "Sometimes I think the violent things are better than the diseases you can catch working in an environment where people have not historically taken care of themselves."

It's true that in seven years on the job, Coughran never has been attacked. But, he said, "when things go down, all staff are targets."

Prison plumbers were on the cusp of a decades-long trend, The Bee found in its examination of 30 years of data from the state's retirement system, documents from legislative archives and former Gov. Gray Davis' recently released papers. The investigation also relied on an electronic database of state workers and classifications, court cases, and records of campaign contributions.

Growth in public-safety pensions has created a class of state workers who can

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look forward to retirements far more secure than the private-sector norm. They're even better than the pensions of other California state workers - already among the most generous in the nation.

"It has reached far beyond the levels of benefits received by others in our society," said Larry McCarthy, president of the California Taxpayers' Association, an anti-tax group that opposes the growth in public-safety pensions.

Over the years, the special retirement category has extended up the supervisory chain, too, allowing workers to accept promotions without giving up their better pension. Today, the category includes more than 1,000 state workers who earn more than \$100,000 a year, including supervisors, physicians and psychiatrists.

Those well-paid workers can look forward to bigger pensions, too. A chief medical officer at a prison who makes \$140,300 a year, for instance, gets an annual pension equal to \$3,500 multiplied by every year he or she has worked.

A series of studies in the 1960s and '70s recommended that the sole criterion for offering better pensions should be encouraging early retirement from positions where workers need to be young and fit to safeguard the public. If the rationale were simply risk, one study found, sewage workers in Los Angeles and state highway maintenance workers would have a stronger claim to special retirements than public-safety workers.

But the Legislature added classifications to the special pension class for reasons other than physical fitness:

The jobs were risky or stressful. The state needed better pensions to recruit and retain qualified employees. Some argued that fairness was at stake - why should they have to toil alongside colleagues who got better retirement benefits? One union complained that splitting its membership between those who got public-safety pensions and those who didn't was creating disharmony.

"Many people have gotten in on the gravy train," said Steven Frates, senior fellow at the Rose Institute of State and Local Government at Claremont McKenna College. The current list, he scoffed, includes "anybody remotely associated with public safety, if they're not totally asleep."

Despite the original purpose - fitness - many of those entitled to special pensions are not required to pass fitness tests to get or keep their jobs. The state discontinued fitness tests of California Highway Patrol officers because the test itself was generating too many workers' compensation claims from those who injured themselves preparing for it or taking it.

The Legislature's initial goal was to encourage safety workers to retire younger by granting higher credits for each year served and lowering the minimum retirement age. In the CHP, for instance, officers get 3 percent of their annual pay for each year of service at age 50, instead of the 2 percent at age 55 available to most state workers.

For pensioners, the difference is considerable - "3 percent at 50" means people with 30 years on the job can get 90 percent of their pay annually if they retire at age 50. But, under "2 percent at 55," 30-year veterans would get just 60 percent of their pay at age 55.

The sweeter pension, however, does not seem to lead safety workers to retire at significantly younger ages.

Workers in the two largest special pension categories leave state service just one to three years earlier than run-of-the-mill state workers, according to data from the California Public Employees' Retirement System. In the fastest-growing public-safety category - known simply as "safety" - workers enter state service seven years older than average, seemingly contradicting the notion that the jobs require younger workers.

The Legislature undermined its own policy. It started off by capping the percentage of salary that workers could receive in retirement, removing the incentive for staying on the job. But it has repeatedly raised that cap - to 90 percent for the peace officer/firefighter category.

For some of the safety classifications, the state has even agreed to "longevity pay" to retain long-time workers.

Public employee unions, a potent political force because of big campaign contributions, have pushed relentlessly to bring more workers into the public-safety retirement group.

The California Union of Safety Employees, which represents a wide array of workers from hospital police to litigation specialists at the state Department of Transportation, gave more than \$500,000 to former Gov. Gray Davis around the time that a bill made its way to his desk that gave the union's members safety retirements. One former union official is blunt about the intent.

"All of this was the result of buying Gray Davis," said Sam McCall, then a union lawyer who helped write and negotiate the bill, SB 183. "We would not have got this done if we had not shoved a lot of money his way."

Marty Morgenstern, director of the Department of Personnel Administration under Davis, said it became clear that the union "felt first of all that they were legitimately entitled to it, and secondly that the unit was being torn apart by this issue."

Davis signed the bill. Through a spokesman, he declined to be interviewed for this story.

There were perceived benefits to the state in adding members to the public safety category. During tough fiscal times, improving pensions was a way to keep workers happy without adding to the deficit.

Lawmakers and officials often argued that there would be no cost at all. Gov. Jerry Brown cited the "net savings" to the state when he allowed the 1976 bill covering prison workers to become law without his signature.

The basis of that and subsequent claims is that the state no longer has to pay 6.2 percent of payroll into the Social Security system for workers declared "police."

The state does have to pay a higher-than-normal percentage of payroll to CalPERS for those workers. But when the added amount is less than the Social Security payment would have been, the state saves money.

For the fastest-growing special retirement class, the category known simply as "safety," however, the CalPERS contribution has exceeded the Social Security savings in each of the last five years.

As the state struggles with a fiscal crisis, this "money-saver" has become an

additional burden. In the 2002-03 fiscal year, for instance, the state had to pay 3.5 percent more for every worker in the safety category - totaling roughly \$30 million more than it paid for the same number of workers in the ordinary state retirement category.

The public-safety status bestows more than a richer pension formula. Workers qualify for industrial-disability retirements. If they're injured on the job, they can retire with half of their pay, tax-free. They also get death benefits not available to other state workers.

Although the public-safety workers stop accumulating Social Security credit, some still are eligible to get the federal retirement benefits for the years they paid into the program. Also, after moving into public safety, they get to take home the portion of their paychecks that used to go to Social Security.

Most would agree that these workers provide a valuable service to the state, often under demanding conditions.

James Young, a psychiatrist at Napa State Hospital, points out a faint scar on his forehead, a memento of when a patient suddenly scratched at his eyes.

At Napa, as at all state mental hospitals, public-safety categories include not just psychiatric technicians and nurses responsible for handling patients, but also psychiatrists, social workers, dentists and podiatrists.

To Young, being eligible for a safety retirement "is an acknowledgment that it is a potentially dangerous job. No matter how you slice it, there's a chance you're going to get hurt."

But Young also illustrates how the policy has strayed from the purpose of encouraging early retirement. At 53, he has no intention of retiring in two years, as his employment category allows.

"I've got a mortgage and a kid to put through school, so unless I win the lottery, it's not going to happen," he said.

And it's unclear why the state would want to encourage early departures among professionals like Young whose performance may improve with experience.

In fact, one justification frequently cited for offering richer pensions is to attract and hold onto quality workers.

"What dentist in his right mind would want to work in a prison?" jokes Marc Weisman, chief dentist at California State Prison, Sacramento. Weisman made the move 14 years ago because he was tired of the non-dentistry duties of private practice, such as managing staff and ordering supplies.

Weisman took the job before prison dentists won public-safety pensions, but says that adds to the appeal of a lower-paying job.

Many state workers and their unions argue that a solid pension makes up for paychecks they say are anemic by private sector standards.

While that is true for many classifications, it's not universal. A 2002 state survey of 17 benchmark job titles found state pay exceeded the private sector's in five classifications.

Critics of the pension policies say the public is largely unaware that the

enhancements have been extended well beyond the workers who routinely put their lives on the line.

"To dilute that and abuse that contract we want with true public safety, it's a manipulation of taxpayers and a manipulation of the process," said anti-tax advocate McCarthy.

The gun-toters and hose-pullers also see it as an erosion of a benefit originally crafted for those who need to be agile and strong - and who lay their lives on the line.

"I have watched the expansion of the safety category for years ... as one group gets it, two others want it," said D.O. "Spike" Helmick, commissioner of the California Highway Patrol - which in 1935 was the first recipient of special pensions.

"Our organization is 75 years old - we've had 200 people killed on duty; Certainly, there haven't been 200 milk inspectors killed," Helmick said. "I don't fault the employee unions for pushing for it - that's their job. But it's the job of the policy-makers to say no."

The latest group to get public-safety pensions is the more than 3,200 workers represented by the California Union of Safety Employees, or CAUSE. On July 1, those workers will be shifted to the "safety" retirement category, entitling them to retire at age 55 with 2.5 percent of their salary for every year served. Most state workers get 2 percent at 55.

The union membership does include fraud investigators and hospital police, who have long been included in the category entitled to higher benefits.

But about half its members have a more tenuous claim to the public-safety mantle - "dairy foods specialists" for instance, or "highway outdoor advertising inspectors" - the people who enforce billboard laws. Two of the largest classifications are the 579 DMV examiners and the 689 CHP dispatchers.

For years, CAUSE tried to get these workers into the safety-retirement category, according to Sam McCall, who worked for the union for 17 years.

"Sometimes, we just could not get an ear," he said.

In 2001, the Department of Personnel Administration again refused to grant safety status to the CAUSE workers during contract negotiations.

But even as administration negotiators rebuffed the union, McCall said, the governor assured union leaders that the Legislature would come through.

McCall recounts how Davis had several face-to-face meetings with union President Alan Barcelona in the aftermath of the union's 2001 contract. The union described them in a notice to its members as "very productive discussions," with Davis agreeing to have legislation introduced providing public-safety retirement for 95 percent of the CAUSE workers who didn't then have it.

The following April, a bill concerning renters' security deposits was gutted and rewritten to put CAUSE workers into the "safety" retirement category. Davis' union negotiators, who had long blocked such a move, changed course and agreed to it, according to internal documents from the administration.

The author of SB 183 was Senate President Pro Tem John Burton, the San Francisco Democrat generally considered second only to the governor in political pull. Burton's bill also gave the state's best retirement formula - 3 percent salary credit at age 50 for each year worked - to the union's peace officers.

It was a departure from rules established just four years earlier. The Legislature, trying to slow the flow of safety-retirement bills, passed a law giving the Department of Personnel Administration the power to determine whether various prison and state hospital workers met the criteria of safeguarding the public or supervising inmates and patients.

The department had said for years that it didn't think the CAUSE workers qualified. And the state's retirement system, CalPERS, continued to hold that position. The employees "do not meet existing criteria," it said in a memo to the governor.

But as the bill worked its way through the Legislature, CAUSE opened its wallet. It gave lawmakers more than \$500,000 during the course of 2002, and it gave a similar amount to Davis alone. The Democratic governor, running for re-election that fall, got \$100,000 three days before the bill was rewritten to include its workers, \$5,000 the day it passed in the Assembly, and another \$250,000 two weeks after he signed it.

"We let him know that he was our candidate, and that one of the issues that was important to us was this retirement," McCall said.

As the bill reached Davis, his administration warned that it would cost the state \$8.9 million a year, just as the Legislature faced a budget shortfall of \$23.6 billion.

The 3,241 CAUSE workers in 71 classifications are just the latest expansion of the public-safety rolls.

In contract bargaining in 1999, the state tentatively agreed to safety pensions for the deputy commissioners of the Board of Prison Terms, which conducts parole hearings.

The union for the deputy commissioners argued that they spent more than half their time in state and county institutions, and were sometimes left alone with inmates during hearings while parole agents retrieved other inmates or witnesses. The union's proposal was that the job be divided in two, between those who preferred to avoid that risk and those willing to accept it, who would receive the higher pensions.

But the following year, that plan hit a snag: the State Personnel Board refused to create a separate job classification for those deputy commissioners working under the tougher conditions.

The duties of the workers had not changed, a board analyst wrote. The union's list of violent incidents from parole hearings mostly involved verbal threats. When there were physical assaults, the analyst said, "There is no indication of the Deputy Commissioner's role in quelling the behavior."

Lacking the new classification, the state Department of Personnel Administration - which had negotiated the 1999 contract - chose an alternate route: giving public-safety pensions to all the employees in the job title, now 52 people.

As early as the 1960s, CalPERS had warned the Legislature that it would face

"massive pressures" from groups angling for safety-retirement status. In a report, it recommended sticking to the narrow definitions of police and firefighters.

At the time, only about 5 percent of the state work force got some sort of enhanced pension for protecting the public: CHP officers, firefighters and fish and game wardens.

But a review of legislation and CalPERS annual reports indicates the state was about to open up the gates.

In 1971, prison guards were included.

Four years later, the State Personnel Board recommended extending public-safety retirement to prison workers who sometimes had custody of inmates. A crop farmer might supervise inmates outside the prison walls with no backup, the report said, or a vocational teacher might be isolated in a tool shed with prisoners.

A bill adding these 1,942 workers was introduced the following year. Sponsors said that prison conditions made the employees "tense and jittery," and sent Gov. Jerry Brown photographs showing them working near inmates.

One showed a mechanic overseeing inmates "with only a whistle for protection." Another depicted a medical assistant working alone in a pharmacy among cabinets filled with narcotics.

Gov. Brown said that while he ordinarily opposed expansion of the special retirement classes, he would allow the bill to become law without his signature because of the "special difficulties" faced by prison workers.

After that, new classifications were added almost every year for the next 25.

In some cases, job titles that had been specifically blocked from getting special pensions got them years later. A 1987 bill granted peace officer status to the security guards at Department of Justice buildings, allowing them to carry weapons. But an amendment blocked them from getting better retirement as a result.

It took 13 years, but in 2000, the Legislature passed a bill granting the security officers the richer pensions other peace officers get.

Other state workers have argued that they deserve the benefit because of the hazards they face.

At Napa State Hospital, workers recount violent episodes as evidence of the extraordinary demands of their jobs.

"The client had a delusional belief that she has millions of dollars," said Judy Ness, a psychiatric social worker on a unit that treats women who have been civilly committed. "If I can't produce all that money, I'm obviously taking it and I'm out buying BMWs and condos and yachts... . She clobbered me in the head and I got a concussion."

Napa workers say they must constantly be aware of where patients are, what kind of days they're having, whether they're carrying a grudge.

"In that sense, it may be no less demanding in its own way than being a

firefighter or a Highway Patrol officer," said Kathleen Patterson, a psychologist there.

The sprawling prison system has a wide variety of jobs, from armed guards forcing high-security inmates to leave their cells to engineers laying out projects and ordering supplies.

Some prison workers covered by public-safety pensions appear to face little risk of attack. Court and retirement case files provide a glimpse of some workplace conditions.

In one instance, a program administrator in the Department of Corrections in charge of joint ventures with private industry spent much of his time in an office or traveling to trade shows and business meetings. In another, a woman supervised three or four nonviolent inmates in a warehouse outside the main prison walls.

More than 90 percent of assaults of prison workers involve guards and other peace officers, according to figures compiled by the Department of Corrections. The rate of assault is three times higher for peace officers than for other prison workers eligible for public-safety retirement.

The likelihood of risking life and limb to protect the public seems even more remote for some of the classifications to be added in July.

Take the "managing deputy commissioners" at the Department of Real Estate. According to state specifications, the deputy commissioners "plan operations, develop staffing requirements, organize and direct the work of a group of employees and evaluate their work."

Many of the newly covered classifications are inspectors charged with enforcing state regulations.

"They frequently have face-to-face hostilities with the people they meet," said McCall, the former CAUSE attorney. "Even the inspectors of mattresses, chairs - those people meet hostile environments."

But the state's bestowing of public-safety pensions for risky jobs is far from consistent. In 1978, a tax compliance worker investigating a scam at a housing project was attacked by two teenagers, who threw him to the ground and repeatedly banged his head on the concrete.

Robert Overend went to court seeking a public-safety retirement. In 1991, an appeals court turned him down.

"It was one of the saddest cases I've ever seen," said his attorney, Al Klein. "The state classifies you a certain way... . You can't make the argument you've been misclassified and get anywhere."

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About the Writer

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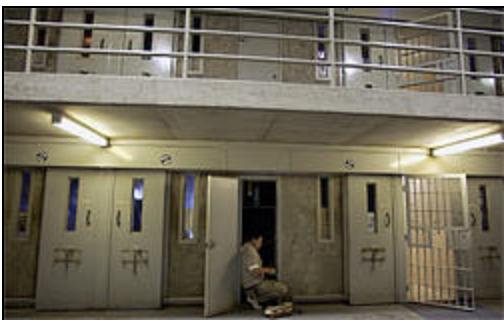
Napa State Hospital workers practice dealing with inmate assaults by wrestling their instructor, Beverly Cooley, to the mat. Many jobs at mental hospitals are in the state's public-safety category.

Sacramento Bee/Paul Kitagaki Jr.



Inmate Mario Herrera, left, helps plumber Richard Williams install a new kitchen faucet at California State Prison, Sacramento.

Sacramento Bee/Paul Kitagaki Jr.



Brian Coughran changes a water valve in a cellblock - something he does 15 to 18 times a day. Coughran, who also oversees inmate assistants, defends the plumbers' eligibility for a better pension.

Sacramento Bee/Paul Kitagaki Jr.



As Napa State Hospital employees practice escaping from dangerous situations, Christine Pachica, center, tries to break the hold of partner Marie Eustache. Workers there tell of violent episodes and say they must constantly be wary of patients.

Sacramento Bee/Paul Kitagaki Jr.

Campaign cash

Campaign contributions flow liberally through California politics, helping lawmakers, initiative campaigns, political parties and others. From the year 2000 to present, some of the public safety unions that have angled for better pension benefits or to cover more members with enhanced retirements gave a total of more than \$12 million to political campaigns. Here is a partial list:

- California Association of Highway Patrolmen:

\$1.455 million

- California Attorneys, Administrative Law Judges & Hearing Officers in State Employment (CASE):

\$1.773 million

- California Union of Safety Employees (CAUSE):

\$2.591 million

- California Correctional Peace Officers Association (CCPOA):

\$3.779 million

- CDF Firefighters:

\$1.112 million

- Union of American Physicians and Dentists:

\$460,877

- California Association of Psychiatric Technicians:

\$715,000

Source: California secretary of state

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